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No. 96-56

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1995

PURE WATERS, INC.
Petitioner

v.

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES
ET AL.,
Respondents

ON THE PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

BRIEF OF AN AMICUS CURIAE, CARL J. MARLINGA, PROSECUTING ATTORNEY FOR MACOMB COUNTY MICHIGAN IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI.

Carl J. Marlinga*
Prosecuting Attorney
40 North Main
Mt. Clemens, Michigan 48043

* Counsel of Record

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QUESTIONS PRESENTED FOR REVIEW

The *amicus curiae* as prosecuting attorney for Macomb County, Michigan, submits this brief to request that this Court give close attention to issue number three (3) presented by petitioner Pure Waters, Inc.; i.e.:

"3. Whether a Federal Court that has exercised sole jurisdiction over all area combined sewer overflow projects erroneously interprets state law, and thereby usurps state authority, by ruling that any new project which improves existing environmental conditions, even though such project continues to pollute, is exempt from the Michigan Environmental Protection Act, which absolutely bars any project that pollutes the environment when a feasible nonpolluting alternative exists?"

From the standpoint of the interest of the amicus curiae, explained further on in this brief, the question can be better stated as the following three inter-related questions:

1. Whether the National Environmental Policy Act preempts the field of water quality and pollution control so as to prevent a state from enacting a statute establishing higher water quality standards?

2. Whether a federal district court's exercise of pendent jurisdiction has resulted in an improper *de facto* federal preemption of water quality and pollution control, thereby nullifying the Michigan Environmental Protection Act and depriving any potential Michigan plaintiff such as the *amicus,* herein, from bringing a lawsuit seeking relief under the state statute?

3. Whether, if this court does not grant a writ of certiorari, there is any procedural avenue for relief from an erroneous interpretation of the Michigan Environmental Protection Act, a question of state law, which is now beyond the reach of any state court to review, consider, or correct?

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BRIEF OF AN AMICUS CURIAE, CARL J. MARLINGA, PROSECUTING ATTORNEY FOR MACOMB COUNTY MICHIGAN IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI.

INTEREST OF THE AMICUS CURIAE

The *amicus curiae*, Carl J. Marlinga is the elected prosecuting attorney for Macomb County, Michigan, and brings this *amicus curiae* brief (without seeking consent of the parties other than plaintiff/petitioner) under Rule 36.4 of the Rules of the Supreme Court of the United States.

Macomb County is a county of approximately 718,000 residents situated just north of Detroit. The eastern edge of Macomb County is the shoreline of Lake St. Clair, a smaller lake in the waters that comprise the Great Lakes system. Lake St. Clair receives waters from Lake Huron and discharges them into the Detroit River. The western edge of Macomb County is the border of Oakland County, the county that is home to the City of Birmingham whose sewage retention basin project is the subject of the lawsuit for which a writ of certiorari is now sought by Pure Waters, Inc. the plaintiff in this suit. Macomb County lies downstream from Oakland County and receives waters from Oakland County on their way to Lake St. Clair.

The geography recited above is important because it is the starting point in explaining the interest of the *amicus curiae.*

As the prosecuting attorney, the *amicus* is authorized under Michigan state law to bring nuisance abatement actions to enjoin any number of possible nuisances, including systematic discharges of pollutants into the waters of the county. As the prosecutor, the *amicus* also has standing under Michigan law to file suit to enjoin pollution of the waters under the Michigan Environmental Protection Act, M.C.L. 691.1201, M.S.A. 14.528(201).

Lastly, as the prosecutor and a representative of a political subdivision, the *amicus* has standing to bring suit to enforce the effluents standards of the Water Pollution Prevention and Control Act (also commonly referred to as the Clean Water Act), 33 U.S.C. 1251(a)(1) et seq.

On November, 30, 1995, the Macomb County Board of Commissioners, the elected governing board of the county, voted to authorize the *amicus* to file a Notice of Intention To Sue to be filed upon the United States Environmental Protection Agency and the Michigan Department of Environmental Quality alleging that those agencies had failed to perform their statutory duties to properly regulate the effluents being dumped into the waters of Macomb County from a combined sewer and waste water facility operated by Oakland County. The Notice of Intention To Sue was mailed December 4, 1995. A copy of the Notice is attached as an Exhibit. The actual filing of the suit has been delayed pending the issuance of a proposed new NPDES (National Pollution Discharge Elimination System) permit which the Michigan Department of Environmental Quality promises will soon be issued to address the problems cited in the Notice. Since this new proposed NPDES permit has not yet been issued, it is not certain that the new permit requirements will adequately address the pollution problem. Therefore, the *amicus* is prepared to go forward with the lawsuit. The success of that lawsuit, however, at least as to the counts relying upon Michigan law, is threatened by the holding of the District Court and the Court of Appeals in this, the Pure Waters case.

In the interest of accuracy and fairness it must be noted that the combined sewer overflow facility at issue in the proposed Macomb County lawsuit is not the same retention basin that is the subject of the Pure Waters suit. In fact the City of Birmingham's basin discharges its waters in a southernly route that empties into Wayne County and the Detroit River. The legal holdings with respect to the viability and enforcement of the Michigan Environmental Protection Act are, however, directly

on point and at issue in any lawsuit that would be filed to relieve the pollution discharges now plaguing Macomb County.

The legal conundrum is this: The District Court in an extraordinary assertion of jurisdiction issued an order directing that all cases which derive from "a common nucleus of operative facts" involving the "Detroit water pollution problem" in relation to sewage systems were to be filed or removed to be consolidated with the initial case dealing with this problem in the District Court. *United States v State of Michigan*, 777 F. Supp. 1365 (E.D. Mich, 1991). As a result of that order, the Pure Waters case was placed on the docket of the District Court, the Honorable John Feikens. If the *amicus* were to file his suit, whether in state or federal court, it, too, would be transferred or removed to Judge Feikens.

The District Court's decision, upheld by the Sixth Circuit Court of Appeals, is an incorrect interpretation of the federal statutes; but at least Pure Waters, Inc. had an opportunity to litigate the federal statutory issues in a federal forum. The summary and rather superficial (and wrong) analysis of the Michigan Environmental Protection Act engaged in by the District Court and affirmed by the Court of Appeals presents more troubling substantive and procedural errors. Under the doctrine of pendent jurisdiction a federal court may, indeed, determine related state claims, looking to state case precedent to intuit what the state's highest court would have decided.

In this case, however, the analysis of the state claim is sparse and the contemplation of state court precedent is minimal. Most importantly, if the District Court is in error, the error will continue to hold sway in a court system that is not particularly attuned to redressing errors in state substantive law issues. From the standpoint of the *amicus*, the filing of any suit premised upon the Michigan Environmental Protection Act is nearly futile. The claim cannot be heard in state court because of the District Court's previous consolidation order; and the District Court's

nullification of the Michigan Environmental Protection Act cannot be appealed to a Michigan appellate court.

The actions of the District Court and the Court of Appeals have as a practical matter preempted and repealed the Michigan Environmental Protection Act; and the *amicus,* and all others similarly situated, are without a forum to appeal that preemption and nullification, unless, of course, this Court issues its writ of certiorari.

The shame of this controversy is that these intellectually fascinating and novel points of jurisdiction, comity and preemption are being debated over a factual base that could not be more disgusting. Untreated or partially treated human waste is being discharged on heavy rain days over the weir of Oakland County's southern retention basin (the so-called Twelve Towns combined sewer overflow facility referred to in the Notice of Intention To Sue) into the waters of Macomb County. Residents living along the Red Run Drain and the Clinton River must deal regularly with an overwhelming stench coming off of those waterways. Beaches have been closed to swimming. A multi-million dollar water-recreation industry has been losing money for years. In 1994, when lake winds blew into shore for a sustained period of time, floating masses of seaweed blocked the normal flow of the Clinton River bottling up human waste, dead fish, and rotting vegetation along miles of residential and recreational shoreline of Lake St. Clair.

The residents of Macomb County through the office of the *amicus* need a fair forum to seek relief from these horrific conditions. They need to rely on a statute, passed by their legislature, imposing standards higher than those set in federal law. But without this Court's writ of certiorari that statute is now a dead letter.

SUMMARY OF ARGUMENT

This case is important because it concerns the well recognized national concern over water quality and pollution control. From the perspective of our state and national court systems this case has unintentionally and unexpectedly raised some of the most basic and vexing questions of federalism, pendent jurisdiction and the preemption doctrine.

A primary issue of national concern, on which state and federal courts need this Court's guidance, is the fundamental question of whether federal law preempts state law in the field of water quality and pollution control so as to prevent a state from enacting a statute establishing higher water quality standards.

Most legal scholars would say that preemption was neither intended nor desirable; and that states should be free to adopt and enforce higher standards. Indeed, in an earlier case, the Sixth Circuit Court of Appeals held that the very state statute at issue, the Michigan Environmental Protection Act ("MEPA") was not preempted by federal law. *Her Majesty the Queen v City of Detroit*, 874 F.2d 332 (C.A. 6, 1989). This court has also held that state claims are preempted by federal law only where there is a "clearly manifested" intent by Congress. *Metropolitan Life Insurance Co. v Taylor*, 481 U.S. 58, 107 S. Ct. 1542, 95 L. Ed. 2d 55 (1987).

Yet the District Court contrived an analysis of MEPA which makes it impossible for the state law to act independently of the federal clean water statutes. The analysis is error enough, but the District Court (at A27 of Petitioner's Appendix) has this curious footnote:

> **In view of this finding the court notes nonetheless that a contention can be made that MEPA is preempted by federal laws which regulate water pollution.**

The Sixth Circuit Court of Appeals chose to not comment upon this footnote. The case law is, therefore, confused in an area of substantial importance. Either federal law preempts the field or it does not preempt. If this Court does not address the question, the preference for preemption will gain more ground in future cases. If that is the will of this Court, it should say so. If the Court is in agreement with the earlier decision of the Sixth Circuit in *Her Majesty the Queen*, supra., it should also say so to stop the drift toward preemption.

If this Court does not issue a writ of certiorari for the plaintiff in this case, Pure Waters, Inc., the *amicus* in the contemplated case against Oakland County, and all others similarly situated will forever be denied relief under MEPA. The holdings of the District Court and the Court of Appeals on a critical issue of state law are incorrect; but procedurally, because of the District Courts omnibus consolidation order (directing all Detroit area water and sewerage cases to be filed or removed to the District Court) the Michigan Court of Appeals and the Michigan Supreme Court will never have an opportunity to interpret and apply the Michigan statute. From the standpoint of the doctrines of comity and pendent jurisdiction no procedural result could be more bizarre. Through the exercise of pendent jurisdiction and case consolidation an erroneous interpretation of a Michigan statute is now forever beyond the reach of the Michigan court system to consider and correct.

In such unusual circumstances, with a national problem such as water quality at the heart of the controversy, it is quite necessary and appropriate for this Court to issue its writ of certiorari to reverse the procedural errors which have deprived the people of Michigan from the protection of a statute passed by their own legislature, but now nullified by the federal courts.

ARGUMENT

I. THIS COURT SHOULD CLEARLY STATE THAT STATE LAWS SETTING HIGHER STANDARDS FOR WATER QUALITY ARE NOT PREEMPTED BY FEDERAL STATUTES.

The case law on preemption of state law by federal statutes in the area of water quality is clear; preemption is not favored. In *Her Majesty The Queen v Cityof Detroit*, 874 F.2d 332 (C.A.6, 1989) the United States Court of Appeals for the Sixth Circuit held that a state statute, the Michigan Environmental Protection Act, M.C.L. 691.1201 et seq., (the very statute at issue in this case) was not preempted by federal law. In *Metropolitan Life Insurance Co. v Taylor*, 481 U.S. 58, 107 S. Ct. 1542, 95 L. Ed 2d 55 (1987) this court also held that state claims are preempted by federal law only where there is a "clearly manifested" intent by Congress. The United States Court of Appeals for the Fourth Circuit has held that nothing in the Clean Water Act indicates a congressional intent to occupy the entire field of water pollution to the exclusion of state regulation. *Stoddard v Western Carolina Regional Sewer Authority*, 784 F. 2d 1200 (C.A. 4, 1986). The Seventh Circuit has also opined that states are free to adopt and enforce higher water quality standards. *United States Steel Corp. v Train*, 556 F. 2d 822 (C.A. 7, 1977).

In spite of the holding in *Her Majesty The Queen*, supra, the District Court applied an analysis which had the practical effect of making MEPA a "piggy-back/me-too" statute; i.e. if the complained of activity or project satisfied the National Environmental Policy Act, 42 U.S.C. 4331 et seq., every effort would be made and was made to reach the same holding under the state MEPA statute. The distaste of the District Court for the state statute is self-evident in the rather facile, half-hearted analysis engaged in by the District Court at A25 through A27 (of the Petitioner's Appendix) regarding the MEPA cause of action. Under the Michigan MEPA statute, as interpreted by Michigan

courts, a polluter is not allowed to continue polluting unless no feasible and prudent alternative exists. *Ray v Mason City Drain Commissioner*, 393 Mich. 294, 224 N.W.2d 883 (1975). The state is obviously close to a zero tolerance standard.

The District Court erred substantially in its analysis by carrying over the less stringent federal statutory test. At A26 (of Petitioner's Appendix) the District Court says that because the proposed retention basin construction project will make things better (reducing overflow events from the order of forty to sixty times per year to approximately six to nine per year) it satisfies the Michigan statute. No Michigan court would so hold.

The District Court goes even further to show its preference for preemption in this footnote at A27:

> **In view of this finding the court notes nonetheless that a contention can be made that MEPA is preempted by federal laws which regulate water pollution.**

The District Court's error is only exceeded by its honesty and candor.

The District Court is asking for a nationwide preemption for federal law in this area. The Sixth Circuit Court of Appeals elected to not specifically address this issue, perhaps troubled by the inherent contradiction with its earlier holding in *Her Majesty The Queen*, supra.

The issue is now ripe for determination by this Court. Granting the writ of certiorari will settle the law on this important question.

II. THE DOCTRINE OF PENDENT JURISDICTION HAS BEEN MISUSED IN THIS CASE TO NULLIFY A STATE STATUTE AND PREVENT ACCESS TO A STATE COURT FORUM.

This closing section of the argument combines the second and third questions presented for review. These questions could be examined under separate argument headings, but the very nature of the procedural error and the substantial injustice at issue favors this combination. The District Court has created a vicious circle. First, it accepts the state MEPA claim under the doctrine of pendent jurisdiction. This is eminently appropriate. Second, it issues what can only be called an omnibus consolidation order directing that all cases which derive from "a common nucleus of operative facts" involving the "Detroit water pollution problem" shall be brought in the District Court or removed to the District Court (The order was entered in Case No. 77-71100, E.D. Mich, cited at 777 F.Supp 1365 (E.D. Mich, 1991) and was affirmed in *County of Oakland v City of Berkley,* 742 F.2d 289 (C.A.6, 1984). This consolidation order was and is extraordinary, but it seemed to have sufficient practical benefit to overcome the unease inherent in its broad and possible overreaching nature.

The previously unseen difficulty in the consolidation order only appears now that the District Court has erred, at least arguably, on the state law issue. As stated previously, Michigan has a near zero tolerance law on water quality. The *amicus* could, therefore, file a complaint in any state court of appropriate venue and could cite a wealth of state precedent to support the argument that a polluter must clean up its pollution unless no feasible and prudent alternative exists. *Ray v Mason,* 393 Mich. 294, 224 N.W.2d 883 (1975); *Eyde v State of Michigan*, 393 Mich. 453, 225 N.W.2d 1 (1975); *Michigan State Highway Commission v Vanderkloot,* 393 Mich. 159, 220 N.W.2d 416 (1974).

The standard, seemingly preferred by the District Court, and left undisturbed by the Sixth Circuit, that projects which improve preexisting conditions are sufficient to satisfy MEPA, would not be seriously received in the Michigan courts.

The problem now facing the *amicus,* however, is truly insoluble. Any complaint filed in state court will be removed to the District Court. There the law of the case will, in effect, nullify any meaningful application of MEPA. The worst practical effect, however, is the inability to appeal the MEPA ruling to any forum. The District Court has already ruled. The Sixth Circuit has affirmed the error. If this court does not grant review, the Michigan MEPA law will, in effect, have been repealed. The amicus and all others similarly situated will have only federal law to rely on.

Normally federal statutes offer a great deal of relief. But, if, as is the case here, a state statute was intended to provide additional protections, and if, as is the case here, the state statute is effectively preempted by federal law, this court's writ of certiorari is essential to correct the injustice.

CONCLUSION

The petition of Pure Waters, Inc., for writ of certiorari should be granted.

Respectfully submitted,

Carl J. Marlinga*
Macomb County Prosecuting Attorney
Macomb County Court Building
40 N. Main, 6th Floor
Mt. Clemens, Michigan 48043
Phone: (810) 469-5641

* Counsel of Record

EXHIBIT

(The Notice of Intention To Sue, reproduced on the following pages, is a precondition to bringing suit against the Environmental Protection Agency or any State Agency which is delegated by the EPA to perform regulatory functions. It is reproduced here to permit this Court to understand the nature of the suit that the *amicus* intends to file and the importance of being able to rely on both federal and state law.)

NOTICE OF INTENTION TO SUE

To: Ms. Carol Browner, Administrator
Environmental Protection Agency
401 M. St. S.W.
Washington, D.C. 20460

And: Hon. Janet Reno
Attorney General of the United States
Department of Justice
Kent St. and Constitution Ave. N.W.
Washington, D.C. 20539

And: Michigan Department of Environmental Quality
Stevens T. Mason Bldg.
P.O. Box 30028
Lansing, Michigan 48909

And: Mr. Valdas V. Adamkus
Regional Administrator
U.S. Environmental Protection Agency
77 W. Jackson Blvd., (R-19J)
Chicago, Illinois 60604

This Notice is given pursuant to 40 CFR 135.1 et seq. and specifically 40 CFR 135.3(b) alleging a failure to act with respect to a non-discretionary duty imposed by the Federal Water Pollution Prevention and Control Act, commonly referred to as the Clean Water Act, 33 USC 1251 *et seq*. The purpose of this notice is to advise the Administrator of the Environmental Protection Agency and the Director of the Michigan Department of Environmental Quality (formerly known as the Michigan Department of Natural Resourses) that the plaintiff in a proposed lawsuit, described below, intends to file a civil action under section 505(a)(2), being 33 USC 1365(a)(2) to compel these agencies to enforce effluent standards by bringing either a compliance order or a civil action against the owners and operators

of a combined sewer overflow facility located in Madison Heights, Michigan which regularly discharges wastewater into the Red Run Drain, the Clinton River, and Lake St. Clair, all waters of the United States located in or abutting Macomb County, Michigan.

Pursuant to 40 CFR 135.1 *et seq.* the following information is provided.

1. The plaintiff and the person giving this notice is Carl J. Marlinga, Prosecuting Attorney of Macomb County, (acting upon his relation to the people of Macomb County) Macomb County Court Building, 40 North Main Street, Mt. Clemens, Michigan 48043 (Telephone 810-469-5641). An additional or alternative party plaintiff may be the County of Macomb, 10 North Main Street, Mt. Clemens, Michigan 48043. The attorney of record will be Carl J. Marlinga, Prosecuting Attorney at the address indicated above.

2. The Administrator of the Environmental Protection Agency has a non-discretionary duty under the Clean Water Act and especially under 33 USC 1319 (a)(2) to either issue a compliance order or commence a civil action to enforce permit conditions or limitations whenever the administrator finds, on the basis of information available to him or her, that violations are so widespread that they appear to result from a failure of the state to effectively enforce such permit conditions or limitations.

3. Oakland County is a political subdivision of Michigan located directly to the west of Macomb County. Its waters are located upstream from the waters of Macomb County. The Oakland County Drain Commission is the holder of an NPDES permit for a combined sewer overflow system (CSO) known as the Southeastern Oakland County Sewage Disposal System, and commonly referred to as the Twelve Towns Retention Basin.

The Twelve Towns CSO discharges combined rain water runoff and sewer water into the Red Run Drain, at the border of Macomb and Oakland Counties. The plaintiff in the proposed lawsuit will allege the following.

(a) The Twelve Towns CSO is undersized for the amount of water it must retain, resulting in a continuous pattern of overflow events which will not be abated without additional construction to increase its capacity. Attached to this notice are exhibits 1, 2, and 3 which summarize the overflow events which have occurred in recent history. Exhibit 1 shows the overflows that have occurred from 1987 through October 6th of this year. [The volume of overflows is in millions of gallons.] Exhibit 2 shows the greater detail of the individual overflow events in 1995. Exhibit 3 shows the same detail for 1994. These exhibits are taken from data compiled by the Oakland County Drain Commission, the NPDES permit holder for the Twelve Towns CSO.

(b) The method of dispensing chlorine into the retained waters is haphazard and ineffective in eliminating dangerous toxins and pathogens.

(c) Each year the Twelve Towns CSO discharges waters in violation of its NPDES permit, releasing dangerous toxins and pathogens into the waters of the United States, thereby endangering the health and safety of persons coming into contact with these waters.

(d) The Twelve Towns CSO constitutes a public health hazard and is a continuing source of pollution for the waters of the United States and a nuisance to the citizens of Macomb County.

(e) Neither the Environmental Protection Agency nor the Michigan Department of Environmental Quality have set appropriate or adequate standards to regulate the discharge of non-pathogenic biochemicals and nutrients. Although such substances are not dangerous to living things, the discharge of such substances has caused an overgrowth of plant life in and on the waters. This has led to an overwhelming sight and smell pollution problem destroying any opportunity to use these waters for recreational purposes.

(f) Neither the Environmental Protection Agency nor the Michigan Department of Environmental Quality engage in sufficient testing of the effluent from the Twelve Towns CSO to determine if discharges are within appropriate safety levels.

(g) The United States Environmental Protection Agency and the Michigan Department of Environmental Quality have taken no enforcement action to abate this source of pollution and bring Twelve Towns into full compliance with its NPDES permit.

4. In the proposed lawsuit, the plaintiff will seek injunctive relief to require the Environmental Protection Agency and the Michigan Department of Environmental Quality to either issue a compliance order or commence civil action under 33 USC 1319(a)(2). The plaintiff will also ask the court to determine if the effluent standards are sufficient to protect the public as required by the Clean Water Act.

5. The plaintiff will also rely on Michigan law (specifically MCLA 691.1201) under the doctrines of pendent or ancillary jurisdiction to allow the court to determine the validity, applicability and reasonableness of the water quality standards to be enforced and, further, to order compliance with such standards as the court may approve.

Respectfully submitted,

Carl J. Marlinga (P17102)
Prosecuting Attorney of Macomb County
40 North Main Street, 6th Floor
Mt. Clemens, Michigan 48043
Telephone: (810) 469-5641

Dated: December 4, 1995

cc: Hon. George W. Kuhn
Oakland County Drain Commissioner
#1 Public Works Drive
Waterford, Michigan 48328

EXHIBIT 1

HISTORICAL OVERFLOW DATA

YEAR	NO. OF OVERFLOWS	VOLUME OF OVERFLOWS	ANNUAL RAINFALL
1995 (10/6)	9	765.7	
1994	12	1,119	33.08
1993	11	862	34.02
1992	15	1,033	37.53
1991	7	692	29.30
1990	17	3,141	40.71
1989	11	1,028	32.79
1988	7	378	26.18
1987	14	1,119	34.91

EXHIBIT 2

OAKLAND COUNTY DRAIN COMMISSIONER
INFORMATIONAL MEETING
SOCSDS RTF NPDES PERMIT

October 12, 1995

1995 OVERFLOW SUMMARY

DATE	VOLUME OF OVERFLOW (MG)	RAINFALL (IN)
1. January 20-21	4.4	1.2
2. March 7	80	1.05
3. June 2-3	2.3	0.5*
4. July 16-17	288	1.4
5. July 23	6.5	1.0
6. August 3-4	281	2.6
7. August 5	2.5	0.15
8. August 17	43	1.4
9. October 5-6	58	1.6

***Fecal Coliform Violations**

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EXHIBIT 3

OAKLAND COUNTY DRAIN COMMISSIONER
INFORMATIONAL MEETING
SOCSDS RTF NPDES PERMIT

October 12, 1995

1994 OVERFLOW SUMMARY

DATE	VOLUME OF OVERFLOW (MG)	RAINFALL (IN)
1. January 28	160	1.5
2. March 21	152	1.15
3. April 30-May 1	7	0.9
4. June 13	500	2.75
5. June 24	124	2.25
6. June 26	23	1.0
7. August 13-14	53	1.9*
8. August 28	43	1.5*
9. October 1	44	1.25*
10. November 6	0.4	.95*
11. November 28	1.4	1.05
12. December 16-17	11	0.65

***Fecal Coliform Violations**